



Steven W. Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

September 22, 2021

Kathy Brunson
Owner, Tailwaggers Kennel
6105 Lake Brandt Road
Greensboro, NC 27455

NOTICE of WARNING and NOTICE of VIOLATION

Re: Violations of Title 02 N.C. Administrative Code ("NCAC") Chapter 52J, Sections .0102(1) and (2); .0103; and .0207(a) and (b)(5).

AWS-WL-2021-11

Boarding kennel: Tailwaggers
License Number: 10333

Dear Ms. Brunson:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") received a complaint concerning the conditions at Tailwaggers Kennel (the "kennel") on August 23, 2021. AWS initiated an investigation based on the information contained in the complaint. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act ("AWA") as these statutes and associated regulations are the extent of the jurisdiction of AWS.

The findings of the AWS investigation concluded:

- 1) Records required by 02 NCAC 52J .0102(1) and (2) were not consistently maintained by the kennel;
- 2) The kennel failed to maintain required records for a period of one year after the animal is released as required by 02 NCAC 52J .0103;
- 3) Despite no animal boarding at the kennel since August 17, 2021 a significant amount of fecal matter was present in a primary enclosure in violation of 02 NCAC 52J .0207(a) which requires enclosures to be properly cleaned a minimum of two times per day;
- 4) In addition, the outdoor enclosures had significant buildup of algae on the concrete in violation of 02 NCAC 52J .0207(a); and
- 5) In an indoor primary enclosure, a soiled blanket remained in the last used kennel in violation of 02 NCAC 52J.0207(b)(5).

Based on the findings of this complaint investigation, the kennel appears to have violated 02 NCAC 52J .0102(1) and (2); .0103; and .0207(a) and (b)(5).

This Warning Letter serves as written notice indicating in which respects the kennel has violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto. The facility owner is directed to immediately comply with the AWA and its associated rules.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

cc: Dr. Michael Martin, State Veterinarian
Christina L. Waggett, Assistant Commissioner, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

Appendix

REFERENCED STATUTES AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0102 RECORDS; BOARDING KENNELS

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;
- (2) description of animals including species, age, sex, breed, and color markings;

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0103 INSPECTION OF RECORDS

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the director or his authorized representative on request, during the business and cleaning hours listed on the license application. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released.

History Note: Authority G.S. 19A-24; 19A-25; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

- (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.